

Notice of Allowability

Application No.

10/656,714

Applicant(s)

EAKIN, DOYLE W.

Examiner

Andrea M. Valenti

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3 November 2005.
2. ☒ The allowed claim(s) is/are 18-21.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☒ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Richard A. Ryan on 12 January 2006.

The application has been amended as follows:

Claims 1, 3-8, 11-17 were cancelled.

Claim 18, line 8, "downwardly facing surface, said upwardly facing surface configured" was changed to --downwardly facing surface, said upwardly facing surface is concave such that the center of said bottom is higher than the periphery of said bottom--

Claim 18, line, 19, "a tubular member removably connected " was changed to --a tubular member connected--

Allowable Subject Matter

Claims 18-21 are allowed.

The following is an examiner's statement of reasons for allowance:

Cited valid prior art references U.S. Patent No. 5,409,510; U.S. Patent Des. 245,241; U.S. Patent No. 5,044,119; U.S. Patent No. 2,989,205; U.S. Patent No. 117,766; U.S. Patent No. 1,631,802; U.S. Patent No. 1,428,487; U.S. Patent No. 2,072,185; U.S. Patent No. 4,833,823; U.S. Patent No. 6,047,499; U.S. Patent No. 5,782,035; U.S.

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Patent Pub. No. US 2002/0017058; U.S. Patent No. 132,808; U.S. Patent No. 2003/0009940; U.S. Patent No. 603,492; U.S. Patent No. D361,308; Japanese Patent JP 2001269072; Japanese Patent JP 04158724; Japanese Patent JP 11289874A; Japanese Patent JP 2001112349 teach drainage tray reservoirs with plant pots. The drainage trays are configured with drainage orifices.

However, the independent claim contains the limitation that the base member has a surface that is concave. Concave by definition has a curved configuration, i.e. rounded inward like the inside of a bowl. There is support for the concave structure on page 16 of applicant's specification lines 3-8. In other words, the bottom surface has a high point near the center of the bottom and a low point near the intersection of the sidewall and the bottom wall. The prior art of record all fails to show, and fails to make obvious, either alone and/or in combination a drainage tray with a base member that is **concave** such that the center of the bottom is higher than the periphery of the bottom to facilitate flow of fluids to a side wall in combination with a drainage orifice in the sidewall at the intersection of the bottom and the sidewall; a tubular member attached to the drainage orifice; and one or more stabilizer members on the downwardly facing surface of the bottom that support the center of the bottom higher than the periphery. All in combination with a plant pot with a drainage hole.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent Pub. No. US 2005/0086863 A1; U.S. Patent No. 5,409,510; U.S. Patent Des. 245,241.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Andrea M. Valenti
Patent Examiner
Art Unit 3643

12 January 2006